



HCP(MD)No.267 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 21.07.2023

CORAM

**THE HON'BLE MR JUSTICE M.S.RAMESH
AND
THE HON'BLE MR JUSTICE M.NIRMAL KUMAR**

H.C.P.(MD)No.267 of 2023

Lakshmi

.. Petitioner /Mother of Detenu

Vs.

1.The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St.George,
Chennai – 600 009.

2.The District Collector and District Magistrate,
Thanjavur District,
Thanjavur.

3.The Superintendent of Prison,
Central Prison,
Tiruchirappalli.

.. Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a writ of Habeas Corpus, calling for the records pertaining to the impugned detention order passed by the second respondent made in his proceedings in P.D.No.161/2022 dated 27.11.2022 in detaining the detenu under Section 2(f) of the Tamilnadu Act 14 of 1982 as a Goonda and quash the same and direct the respondents to produce the detenu namely Rajesh,



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S/o.Subramaniyan, Male, aged about 23 years, who is detained in Central Prison, Tiruchirappalli, before this Court and set him at liberty.

For Petitioner : Mr.K.M.Karunakaran

For Respondents : Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

(Order of the Court was made by M.S.RAMESH,J.)

The petitioner is the mother of the detenu viz., Rajesh, aged about 23 years, S/o.Subramaniyan. The detenu has been detained by the second respondent by his order in P.D.No.161/2022 dated 27.11.2022 holding him to be a "Goonda", as contemplated under Section 2(f) of Tamil Nadu Act 14 of 1982. The said order is under challenge in this Habeas Corpus Petition.

2. We have heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondents. We have also perused the records produced by the Detaining Authority.



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3. Though several grounds have been raised in the Habeas Corpus Petition, the learned counsel appearing for the petitioner would mainly focus his argument on the ground that the detention order was passed on 27.11.2022 and the grounds of detention ought to have been served within five days, i.e., on or before 01.12.2022. However, it was served on the detenu only on 03.12.2022 and therefore, there is a delay of seven days in serving the booklet to the detenu. On the said sole ground, he contended that the detention order is liable to be set aside.

4. The learned Additional Public Prosecutor has not filed his counter. However, he strongly opposed the Habeas Corpus Petition. It is further submitted that investigation has been completed in this case and final report has been filed in P.R.C.No.12/2023 and the same is pending before the Judicial Magistrate Court No.II, Thanjavur.

5. Perusal of the record would go to show that no doubt, the detention order was passed on 27.11.2022 and the booklet was served on the detenu only on 03.12.2022, which is evident from the endorsement made as under:



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FIRST INFORMATION REPORT
முதல் தகவல் அறிக்கை
(Under Section 154 Cr.P.C.)
இதன்மேலியிதழ் 154 இல் கீழ்

TAMIL NADU POLICE
(INTEGRATED INVESTIGATION FORM)

C 11953248

1. District: **THANJAVUR** PS: **VALLAM** Year: **2022** FIR No.: **1027** Date: **26-10-2022**

2. Act(s): **INDIAN PENAL CODE, 1860** Section: **302**

3. (a) Occurrence of Offense Day: **Thursday** Date From: **27-10-2022** Date To:
Time From: **23.00 Hrs** Time To:
(b) Information received at P.S. Date: **23-10-2022** Time: **03.00 Hrs**

4. Type of Information: **WHITTEN**

5. Place of Occurrence: (a) Direction and Distance from P.S. **SOUTH 7.0 Km** (b) Address: **DOHDSO THERU EAST, 88 COLLEGE RD., MATHAKKOTTAI, THANJAVUR, TAMIL NADU - 604356**

6. Complainant/Informant: (a) Name: **SEBASIM** (b) Date/Year of Birth: **1970** (c) Nationality: **INDIA**

7. Details of Known/Suspected/Unknown persons with full particulars:

8. Particulars of the properties stolen/involved:

9. Total value of properties stolen/involved:

10. Inquest Report/Un-natural death Case No. If any:

சிறை நுழைவு பெற்றதொன்றின்
பொய்ச் சான்றிதழ் கண்டு பிடிப்பு
சான்று - 598639

நேரம் - 11-00
திகதி - 03-12-2022

சிறை விளக்கி எழுதப்பட்டது
பொய்ச் சான்று எழுதப்பட்டது

12-01-2023

As per Section 8 of the Act 14 of 1982, the detaining authority not later than five days from the date of detention, serve the detenu the grounds of detention. As per the said Act, one day should be excluded. In the present case, after excluding the said one day, it is seen that the booklet has been served with a delay of six days and hence, the detention order is liable to be quashed.



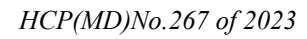
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6. In the result, the Habeas Corpus Petition is allowed and the order of detention in P.D.No.161/2022 dated 27.11.2022 passed by the second respondent is set aside. The detenu, viz., Rajesh, S/o.Subramaniyan, aged about 23 years, is directed to be released forthwith unless his detention is required in connection with any other case.

(M.S.R.,J.) (M.N.K.,J.)
21.07.2023

NCC : Yes / No
Index : Yes / No
Lm/mbi



1. The Additional Chief Secretary to the Government,
Home, Prohibition and Excise Department,
Fort St. George,
Chennai – 600 009.
2. The District Collector and District Magistrate,
Thanjavur District,
Thanjavur.
3. The Superintendent of Prison,
Central Prison,
Tiruchirappalli.
4. The Joint Secretary to Government,
Public (Law and Order),
Fort St. George,
Chennai.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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and
M.NIRMAL KUMAR,J.

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